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January 16, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: WT Docket No. 97-207

Dear Ms. Salas:

Herewith transmitted, on behalf of United States Cellular Corporation, are an original and five copies of its "Reply Comments" in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,

  
Peter M. Connolly

Enclosure

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List A B C D E

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JAN 16 1998  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter Of )  
 )  
Calling Party Pays Service ) WT Docket No. 97-207  
Option In The Commercial )  
Mobile Radio Service )

**REPLY COMMENTS OF UNITED  
STATES CELLULAR CORPORATION**

United States Cellular Corporation ("USCC") hereby files its Reply Comments in the above-captioned proceeding. Upon review of the comments filed, USCC continues to believe that the nationwide availability of "calling party pays" (CPP) service for customers of CMRS licensees will serve the public interest. However, the comments have highlighted several problems which must be solved if CPP is to be viable. In what follows, USCC will specify those problems, and offer preliminary proposals regarding their solutions. When and if this proceeding ripens into a rulemaking proceeding, USCC will comment on the proposed rules in greater detail.

**I. The FCC Must Resolve The Issue  
Of Its Jurisdiction Over CPP**

Various commenting parties have made it clear<sup>1</sup> that inconsistent state regulation of CPP service options will be an impassable barrier to their widespread availability. Clearly, if wireless CPP is to become a reality, there must be a national and consistent regulatory regime, with national standards and guidelines under which the FCC would be the "court of last resort" with respect to rate and billing disputes between LECs and CMRS carriers and regarding the means by which wireline customers would be advised that a particular call was a CPP call.

USCC does not generally support the imposition by the FCC of new federal mandates, not required by statute, on any segment of the telecommunications industry. However, in this instance, CPP is, we believe, sufficiently desirable from the standpoint of the public interest as to merit a partial exception. LECs should be required to cooperate in the provision of CPP, and should be required to bill their customers for the service in exchange for a reasonable, cost based share of such billings, and should not be allowed any control over the CMRS billing rates which they pass through.

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<sup>1</sup> See, e.g., Comments of Vanguard Cellular Systems, Inc. (pp. 12-14), U.S. West, Inc. (pp. 4-6), and CTIA (p. 12).

USCC agrees that it is fair that LEC customers should be made aware that they are paying for wireless CPP calls and should be verbally informed of that fact prior to every such call for as long as the FCC considers it necessary. USCC wishes to underscore that such advice to customers should and must be given pursuant to national standards.

Given the need for national standards, it is urgent that the FCC determine the jurisdictional basis for its action pre-empting state jurisdiction. Certain parties<sup>2</sup> have maintained that the FCC can assert jurisdiction over CPP under its authority over CMRS "rates and entry" found in Section 332(c)(3)(A) of the Communications Act. However, perhaps in response to a prior FCC statement<sup>3</sup> to the effect that CPP is one of the CMRS "terms and conditions" which may be regulated by the states, AirTouch Communications, Inc. has persuasively argued that the FCC may assert jurisdiction under its Title I authority spelled out in Section 4(i) of the Communications Act.<sup>4</sup>

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<sup>2</sup> See, e.g., Comments of CTIA (pp. 12-24); GTE Service Corporation (pp. 18-21).

<sup>3</sup> See Report and Order on Reconsideration ("Arizona Decision,") 10 FCC Rcd 7824, 7837 (1995).

<sup>4</sup> See AirTouch Comments, pp. 18-24; 47 U.S.C. § 154(i).

As the FCC moves toward a rule making proceeding it must focus on this issue, as those opposed to any FCC action to foster CPP certainly will.

**II. The FCC Should Act To Promote  
Cooperation Among All Parties  
Concerned With This Issue**

Even if the FCC takes appropriate, but limited pre-emptive action, many CPP issues will remain which are not susceptible to detailed "solutions from above." The most important of these is that of "leakage," namely CPP calls which, for whatever reasons cannot be billed to a calling party. Those types of calls are specified in the illuminating comments filed by SBC Communications (p. 10).<sup>5</sup> SBC found that it could not collect on more than 40% of its CPP calls in a CPP trial in the Chicago area.

The FCC can facilitate negotiations among carriers to determine how to share the burden of such now uncollectible revenues. AirTouch endorses a "clearinghouse" approach (Comments p. 26) to the collection and distribution of such revenues, but notes that certain LECs have declined to participate in any CPP

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<sup>5</sup> As SBC points out, leakage often occurs on calls from hotels, motels, and hospitals, from pay phones, from inter-LATA calls, WATS calls, international calls, and calls from CLECs, independent LECs, and other wireless companies.

clearinghouse, presumably out of a desire to block the emergence of CPP. Without attempting to determine how such a clearinghouse would perform its functions, the FCC could require all carriers to participate in good faith negotiations concerning the appropriate means of achieving compensation of wireless carriers by those using their networks, through the use of a clearinghouse or otherwise. This process would, of necessity, be linked to continuing improvement of the "out-of-band" signaling technology which is involved in the sharing of billing information.

With cooperation among the parties involved, viable CPP is, we believe, achievable. The FCC should explore ways to help bring about that cooperation, regulating as lightly as is compatible with the basic objective. As issues arise, the Commission should bear that guiding principle in mind.

**III. CPP Will Be Crucial If Wireless  
Carriers Are To Be Viable Eligible  
Telecommunications Carriers**

CPP is not important only for itself. It also will be a crucial component of the new competitive regulatory paradigm which the FCC is attempting to bring into being in all its recent proceedings.

For example, in its universal service proceeding, the FCC has stressed that wireless carriers would be eligible for designation

as telecommunications carriers eligible to receive universal service support provided they offered services supported by federal universal service support mechanisms.<sup>6</sup> As many states review designating CMRS carriers as eligible carriers, in order to foster state universal service objectives, CPP is a crucial component in that analysis.

However, the purpose of such designations will be undercut if "universal service" customers being served by CMRS carriers cannot give out their telephone numbers for fear of being inundated with unwanted incoming calls.

If wireless carriers are going to compete with wireline carriers and provide the benefits of competition to the public, they must start the race on equal terms. CPP will be crucial to the achievement of that equality.

### **Conclusion**

For the foregoing reasons and those given previously, the FCC should commence a rulemaking proceeding looking toward the establishment of national CPP standards.

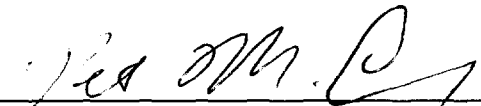
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<sup>6</sup> See Universal Service Report and Order, 12 FCC Rcd 8776, 8858-8859 (1997).

Respectfully submitted,

**UNITED STATES CELLULAR CORPORATION**

By: \_\_\_\_\_



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January 16, 1998

Its Attorneys

**CERTIFICATE OF SERVICE**

I, Theresa Belser, a secretary in the offices of Koteen & Naftalin, hereby certify that true copies of the foregoing Reply Comments were sent to the following by First Class United States Mail this 16th day of January, 1998:

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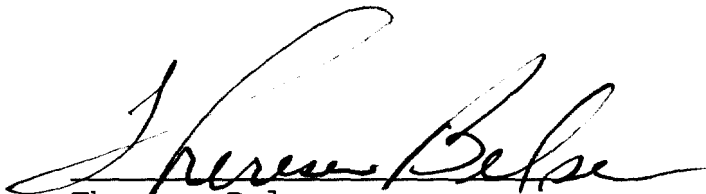
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